



1641
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NW
N.E.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)	Group Art Unit: 1641
)	
David T. Bach et al.)	Examiner: C. Cheu
)	
Serial No. : 09/845,489)	
)	
Filed : April 30, 2001)	
)	
For : MICRO-ARRAY EVANESCENT)	
WAVE FLUORESCENCE)	
DETECTION DEVICE)	
)	

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ELECTION AND AMENDMENT

Honorable Commissioner for Patents
Washington D.C.

Kindly accept the following election in response to
the restriction requirement mailed Aug. 26, 2003.

ELECTION - The applicant elects class II, claims 2-6, 12-14, 16, 18-20, 26-32, 34, 41, 43, 45, 47, 53, 56, and 58 drawn to a system for detecting the presence of target substances in samples.

TRAVERSAL - The applicant is surprised to receive a restriction after a detailed first office action and

response was filed. The applicant believes there is no difference in the "classifications" the examiner has made. In particular, there is no difference in the classes the examiner calls II. And V. The applicant therefore traverses the examiners restriction requirement on all classes and in particular his restriction between classes II. And V. The applicant elects class II in the case this traversal is rejected by the examiner. The examiner finds some artificial distinction between "a system for detecting the presence of target substances in samples" in his class II. And "a system for detecting the presence of target substances" in his class V. These systems are not separate species nor are they different genus as the examiner seems to assume. They are in fact identical.